

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 3671 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE D.P.BUCH

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1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgements?
  2. To be referred to the Reporter or not? : NO
  3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
  4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge? : NO

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ANAND DIDWANI DIRECTOR OF M/S NEW GLOBE AIR SERVICES P L  
Versus  
DHANESH BADARMAL JAIN

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Appearance:

1. Criminal Misc.Application No. 3671 of 1998  
MR MEHUL SHARAD SHAH for Petitioner No. 1  
NOTICE SERVED for Respondent No. 1  
MR PARESH M DAVE for Respondent No. 2  
MR AJ DESAI, LD.ADDL.PUBLIC PROSECUTOR for State of  
Gujarat.

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CORAM : MR.JUSTICE D.P.BUCH

Date of decision: 08/05/2002

ORAL JUDGEMENT

#. This is an application under Section 482 of the  
Criminal Procedure Code, 1973, ( for short "the Code")

for quashing and setting aside the criminal complaint being Criminal Case No.2264/1998 filed by respondent No.1 herein, against the petitioner and two other accused persons for the offences punishable under Sections 407, 420, 34 and 114 of the I.P.C. before the learned Metropolitan Magistrate at Ahmedabad.

#. In the said complaint, it is mainly alleged by the contesting respondent that the said respondent wanted his goods to be carried by air passage and, therefore, the goods were entrusted to the accused persons named in the said complaint. That there was a pre-condition that the goods would be entrusted to the consignee only on submission of original Air Passage Bill by the said assignee. That the three accused persons have dishonestly entrusted the said goods to the consignee without the original Air Passage Bill and ultimately the original complainant has been put to wrongful loss. It is also contended that the accused persons have acted dishonestly as aforesaid and, therefore, they have committed the aforesaid offence.

#. On receipt of the said complaint, verification of the complainant on oath was recorded by the learned Magistrate and, thereafter, the learned Magistrate was pleased to pass an order for registering the complaint and for issuance of process of summons for the offence punishable under Section 407 of the I.P.C. against all the three accused persons.

#. Feeling aggrieved and dissatisfied by the aforesaid order of the learned Magistrate, the petitioner herein being accused No.3 in the original Criminal Case as aforesaid, has preferred this application before this Court under Section 482 of the said Code for quashing the same. It has been mainly contended by the petitioner that the petitioner was simply an agent and he has not committed any offence and, therefore, complaint against him is required to be quashed.

#. Rule was issued and the matter was kept for final hearing. I have heard the learned advocate for petitioner and Mr.S.V.Raju, learned advocate for contesting respondent. I have also heard learned APP Mr.A.J.Desai.

#. During the course of hearing, it has transpired from the arguments and records that the present petitioner acted simply as an agent and the records do not show his involvement in the commission of the offence in question. No offence has been made out against him even on a bare

reading of the complaint in question. Therefore, looking to the complaint and other materials on record, it is very clear that so far as the present petitioner is concerned he is not shown to have been involved in the offence and therefore, he cannot be said to be an accused person.

#. In above view, it would be futile to proceed against the present petitioner in the aforesaid complaint when no offence is shown to have been committed by the petitioner. This is a fit case for exercising inherent jurisdiction under Section 482 of the said Code for quashing the aforesaid complaint.

#. For the foregoing reasons, this application is allowed and Criminal Case No.2264/1998 filed against the petitioner is ordered to be quashed and set aside qua the petitioner only. Rule is made absolute.

( D. P. BUCH, J. )

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